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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA

Plaintiff,

v.

JIMMY LEUNG,

Defendant.

2:02-cr-0337-LRH-RJJ

ORDER

Before the court is defendant Jimmy Leung's ("Leung") request for a certificate of appealability. Doc. #190.

On June 13, 2002, Leung was arrested as part of a counterfeit cashier's check sting operation. Following his arrest, Leung was indicted on six separate charges: (1) conspiracy; (2) counterfeited securities; (3) fraudulent use and possession of identification documents; (4) fraudulent use of a credit card; (5) bank fraud; and (6) aiding and abetting. Leung proceeded to trial and was convicted by a jury on counts one, two, three and five. Doc. #102.

Leung appealed his conviction and sentence. Doc. #142. The Ninth Circuit denied Leung's claims and affirmed his conviction and sentence. Doc. #160. In response, Leung filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (Doc. #166) which was denied by the court (Doc. #184). Leung appealed the denial of his § 2255 motion. Doc. #188. Thereafter, Leung filed the present request for a certificate of appealability. Doc. #190.

1 Under the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), "an appeal
2 may not be taken to the court of appeals from . . . the final order in a proceeding under section
3 2255" unless a district court issues a certificate of appealability ("COA") based on "a substantial
4 showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(1)(B).

5 Here, the court finds that Leung has not shown a denial of a constitutional right in his
6 § 2255 motion. In the court's order denying his § 2255 motion, the court noted that Leung failed to
7 raise several issues argued in his motion on direct appeal, and was therefore precluded from raising
8 them on collateral review. *See* Doc. #184. Thus, the court was not presented with any cognizable
9 constitutional issues in his motion.

10 Further, Leung has failed to demonstrate that reasonable jurists would find the court's
11 assessment of his claims debatable or wrong. *See Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th Cir.
12 2006). Therefore, the court shall deny Leung's request for a COA on his motion to vacate or correct
13 sentence pursuant to 28 U.S.C. § 2255.

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15 IT IS THEREFORE ORDERED that defendant's request for a Certificate of Appealability
16 (Doc. #190) is DENIED.

17 IT IS SO ORDERED.

18 DATED this 28th day of August, 2012.



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21 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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